IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 14324 of 2005

Between:

Narsimha Reddy, s/o Shankar Reddy,
r/o Amisthapur (V), Boothpur (M), Mahabubnagar District.

..... PETITIONER

AND

The Land Acquisition Officer/Mandal Revenue Officer, Boothpur, Mahabubnagar District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the order passed in OP No.128/1992 dated 19-3-1999 as violative of Articles 14 and 21 and 300-A of the Constitution of India; 2. to set aside the order in OP No.128/1992 dated 19-3-1999 on the file of the Senior Civil Judge, Mahabubnagar. 3. to direct the respondent to award compensation to the claimants at the rate of Rs.150/- per sq.yard for their lands acquired by the Government.

Counsel for the Petitioner: MR.A.SUDERSHAN REDDY

Counsel for the Respondent: GP FOR REVENUE

The Court at the admission stage made the following :

ORDER:

This writ petition is filed for a writ of mandamus declaring the order dated 19.03.1999 passed in O.P.No.128 of 1992, on the file of the Senior Civil Judge, Mahabubnagar, as violative, and set aside the same, directing the respondent to award compensation to the claimants at the rate of Rs.150/- per square yard, for the lands acquired by the Government.

It is the case of the petitioner that the land of himself and others was acquired by the Government. Alleging that the compensation fixed by the Government was meager, they filed an application before the respondent to refer the matter to the Civil Court under Section 18 of the Land Acquisition Act (for short "the Act"). Accordingly, the respondent referred the same to the civil Court and the same was numbered as O.P.No.128 of 1992. It is stated that the second claimant in the O.P. was looking after the proceedings before the civil Court, and on account of his death, the matter could not be represented. On the ground that there was no representation on behalf of the claimants, the learned Senior Civil Judge closed the reference. Thereafter, the claimants filed I.A.No.43 of 2001 to condone the delay of 665 days in filing the application to restore the O.P. The said application was dismissed on 23.9.2003 on the ground that the delay was not properly explained.

The learned Counsel for the petitioner submits that as per Section 18 of the Act, civil Court cannot dismiss a reference made by the Collector, as a matter of course, on the ground that the claimant was absent. Even if the claimant is absent to the

proceedings, it is the bounden duty of the civil Court to pass an award in that reference. In support of the said contention, he relied on a Judgment of the Supreme Court in KHAZAN SINGH VS. UNION OF INDIA, and submits that in view of the said judgment, the impugned order is liable to set aside.

Admittedly, it is a reference made by the respondent, the Mandal Revenue Officer, to the civil Court to determine the compensation payable to the claimants. On the ground that the matter was not represented by the claimants before it, the civil Court closed the proceedings, without answering the reference. It is the bounden duty of the civil court to answer the reference even in the absence of the party to it. On this aspect, the Supreme Court in KHAZAN SINGH VS. UNION OF INDIA (supra), held as follows:

> "It is clear from the provisions of Sections 18 and 26 Land Acquisition Act that the Civil Court has to pass the award in answer to the reference made by the Collector under Section 18 of the Act. If any party to whom notice has been served by the Civil Court does not participate in the inquiry it would only be at his risk because an award would be passed perhaps to detriment of the party concerned. The non-participation of any party would not confer jurisdiction on the civil Court to dismiss the reference for default."

In view of the above decision, the writ petition is allowed, setting aside the impugned order. No order as to costs.

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(ELIPE DHARMARAO, J)

Dated:06.07.2005

MRKR

To

1. The Land Acquisition Officer/Mandal Revenue Officer, Boothpur, Mahabubnagar District.
2. Two C.Cs to the Government Pleader for Revenue, High Court Buildings, Hyderabad.
3. Two C.D.copies.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1) 2 CD copies